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Board Meeting Minutes – October 6, 2014

21st Floor – Conference Room 1

Present Board Members:

- Walter White, Executive Office of Public Safety Designee, Chair (WW)
- Diane McLeod, Vice Chair (DM)
- Myra Berloff, Massachusetts Office on Disability Director (MB)
- Andrew Bedar, Member (AB)
- George Delegas, Member (GD)

and

- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)
- Thomas Hopkins, Executive Director (TH)
- Deirdre Hosler, Deputy General Counsel (DH)

Members Not Present:

- Carol Steinberg, Member (CS)
- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)

- Meeting began at 9:00 a.m.

1) Discussion: Roll Call

WW - Call to order all but Raymond Glazier and Carol Steinberg present

2) Incoming: Hancock Congregational Church, 1912 Massachusetts Avenue, Lexington (V12-173)

TH - EXHIBIT – e-mail from Don Mills, September 19, 2014 with plans included
- distance between ramp handrails is 39 ¼ inches

DM - grant as proposed
AB - second – carries unanimously

3) Incoming: Elevator Modernization, 100-102 Tremont St., Boston (V14-251)

TH - EXHIBIT – variance application and supplemental information
- spending \$54,575, building value is \$5million+
- 11 story office building
- seeking variances based on work performed
- seeking variance for 48” by 48” exception for existing shaft size
- they are providing 40” by 68”
- doors are 33” clear

DM - grant as proposed, based on technological infeasibility
GD - second – carries unanimously

Carol Steinberg, Member – Now Present (CS)

4) Incoming: Howard Building, 67 Federal St., Pittsfield (V14-253)

TH - EXHIBIT – variance application and supplemental information
- renovation and reuse of existing building
- 17 new apartments at upper floors, but no requirements for Group 1 or Group 2A
- an elevator is provided within the building, so access required at all public and common use areas
- slope of the landing at entrance door (102) will be more than 2%, but no specific slope given
- proposing automatic door opener as well

DM - grant, on the condition that the slope of the landing does not exceed 1:12 and an automatic door opener is provided as proposed
MB - second – carries unanimously

5) Incoming: Home Plate Restaurant, 1094 Bay St., Taunton (C13-028 & V14-247)

TH - EXHIBIT – variance application and supplemental information
- cited for 4 items (slope of ramp, landing slopes, location of control button, and lack of level landing at the door)
- Petitioner submitted the variance request to satisfy all original complaints; resurfaced the ramp and relocated the button
- they are seeking a variance for the lack of compliant slopes along the ramp (9.4 and 9.5%) and at the landing slopes (4.4 and 3.6%) and no level landing at the door, and the location of the control button
- Complainant (Independence Associates) submitted letter of support for the variance application

DM - grant, based on excessive cost without substantial benefit
GD - second- carries unanimously

Raymond Glazier, Executive Office of Elder Affairs Designee – Now Present (RG)

6) Incoming: Vineyard House, Women’s Building, 56 Shorthill Road, Vineyard Haven (V14-246)

- TH - EXHIBIT – variance application and supplemental information
- conversion of a closet area near the front entrance into an inaccessible toilet room
- there is an accessible toilet room 15 feet away

MB - *grant as proposed*

DM - *second – carries unanimously*

7) Discussion: Odd Fellows Hall, Eternal Hall No. 132, 2 Namskaket Road, Orleans (V11-089)

TH - EXHIBIT – September 25, 2014 status report submitted by e-mail from William Wordell, Noble Grand IOOFF

- previous proposal to add addition and an elevator
- they agreed that the project would be done by April of 2014, with the submittal of status reports every six months
- seeking a time extension to finish their project by 2018
- trigger was the proposal for the addition, and spending \$800,000 at that time, with the value of the building being \$112,000
- have raised \$327,000 reserved for the project

AB - *grant an extension April 15, 2018 to complete the accessibility project, no further extensions thereafter; and on the condition that the status reports continue as previously*

MB - *second - carries unanimously*

8) Incoming: Sidewalk Restoration Project, 464-490 Commonwealth Avenue, Boston (V14-268)

- TH - EXHIBIT – variance application and supplemental information
- Boston Water & Sewer Commission replaced water main and National Grid replaced gas main
 - proposing noncompliance at a furniture zone section of the sidewalk
 - temporary patch sidewalk, and will completely repave
 - e-mail of support from Kristen McCosh, Disability Commissioner for the City of Boston, submitted September 30, 2014

CS - *grant as proposed*

MB - *second – carries unanimously*

Deirdre Hosler, Deputy General Counsel for Department of Public – Now Present (DH)

9) Discussion: St. Paul’s Episcopal Church, 16 Fair Street, Nantucket (V14-149)

- DH - EXHIBIT – submittal from John Stover
- we are public safety and therefore not prevented from enforcing jurisdiction

TH - ask that we write an official response

DH - cannot prevent others from worshipping, so Article 2 supports the need for access

- TH - issue is that there are a number of items that they failed to address, since work was over 30%
- there is a kitchen that was completely renovated and not made accessible
 - there is not a compliant work station, sink or cooking area

- DH - this case was ascetics only
- I will put something in writing in response to the question

10) Discussion: E-mail Retention Policy

- DH - reiteration of every state employee from all executive offices get
- all board members will get a state e-mail address
- and will use that exclusively for Board business
- when members of the private sector use private e-mails is hard to retain
- should be issued in the next couple of weeks

11) Discussion: Icon Project

- MB - 3-4 weeks ago was at a conference with people from the US Access Board, and asked them about the Icon project
- biggest push is from Massachusetts to the US Access Board
- they are not going to change the stagnant symbol as the International Symbol of Accessibility
- the definition of International Symbol of Accessibility would need to be changed, but not sure who it is that would change that definition, but the US Access Board is not going to take the issue up
- language in general laws is about plates and placard, so there is nothing about the symbol in the general laws for accessible parking space enforcement
- US Access Board has made a decision at the moment that they are not going to do anything about it at this time

- DH - public domain dedication, appears to be in the public domain, but not sure of any licensing issues
- can reasonably assume that there may be no proprietary benefit
- did leave a voicemail for Maynard officials, and did receive voicemails back, but have yet to actually talk to them
- can put them on notice that this is a clear violation of the regulations

- MB - would encourage them to go to whomever writes the definition of the International Symbol of Accessibility and have their symbol try to be included in that definition

- DH - will follow-up with a letter to put the towns that use the symbol on notice that this is not an acceptable symbol based on 521 CMR

- MB - it's a matter of having control over the symbol

- DH - uniform governing needs to be definitive
- will write enforcement letter to Town of Maynard and company that is selling the symbol

CS - write a letter to town of Maynard and any other towns using this symbol from the Icon Project, as well as the company that sells this symbol, that this symbol is not compliant with the requirements of 521 CMR

DM - second – carries unanimously

DH no longer present

12) Incoming: Vernon Street School, 56 Vernon Street, Northampton (V14-244)

- TH - EXHIBIT – variance application and supplemental information
- work is over 30%
- seeking variance for the lack of vertical access to the second floor administrative spaces
- describe the building as two floors with 5 preschool classrooms, managerial staff, and WIC program
- 16,000 square floor, 8,000 square feet per floor

CS - *deny*
DM - *second – carries unanimously*

13) Incoming: Papas Law Library and Auditorium at BU, 765-767 Commonwealth Ave., Boston (V14-252)

- TH - EXHIBIT – variance application and supplemental information
- large project with multiple variances requested

CS - *schedule a hearing*
AB - *second – carries unanimously*

14) Incoming: 308 Lakeside, 308 East Main Street, East Brookfield (V14-256)

- TH - EXHIBIT – variance application and supplemental information
- think it needs a hearing

CS - *hearing*
DM - *second – carries unanimously*

15) Incoming: War Memorial Tower, Mount Greylock State Reservation, Adams (V14-257)

- TH - EXHIBIT – variance application and supplemental information
- tower is encased in ice in the winter, so not proposing any sort of cameras for the top floor
- spiral staircase is the only method of access to the second floor
- they will provide access at the first floor, and an accessible lookout space at the first floor
- variances for handrail locations, curved ramps, handrail extensions, dimensions on landings, ramp slopes, ramp handrails, vertical access to top floor, lack of level landings at doors

MB - *look into the installation of a camera, something that could be installed 3 seasons out of the year and take down in the winter, to give a view of the second floor*
RG - *second – carries unanimously*

MB - *grant all other variances as proposed*
DM - *second – carries unanimously*

16) Incoming: Amorino (proposed tenant at first floor, Unit C-2) 249 Newbury Street, Boston (V14-260)

- TH - EXHIBIT – variance application and supplemental information
- the tenant that was on the upper floor, sometime after 2005 needed a bathroom, so they cut the LULA off and plumbed through the remaining LULA shaft
- new architect called about the issue of the lack of the LULA
- they are now putting the LULA back in
- new building owner as well
- we should reinstate the previous order requiring the LULA

CS - as previously ordered, the installation of the LULA shall be installed and be inspected, prior to the occupancy of the first floor

MB - second – carries unanimously

MB - require the plans for the replacement of the LULA, to ensure that it complies with 28.12.3 of 521 CMR; submitted as soon as possible

CS - second – carries unanimously

TH - they want you to reaffirm the 2005 order, which allowed the front entrance to be noncompliant

MB - reaffirm the granting of a variance for the lack of compliance at the front entrance, on the condition that the rear entrance complies in full and that the LULA is installed as proposed and previously ordered

CS - second – carries unanimously

TH - front handrails do not comply with 27.4
- asking the handrails to remain as they exist
- argument is that they are historic to the property
- bathroom and the configuration of the room under 30.7.1, there is slight angle to the door

MB - grant the variance for the dimensions of the accessible toilet room

DM - second – carries unanimously

MB - grant the variance for the lack of compliant clearance at the toilet room door

RG - second – carries unanimously

MB - deny the variance requested for the exterior stair handrails

AB - second – carries unanimously

MB - cancel the scheduled hearing

RG - second – carries unanimously

CS left the room

17) Incoming: St. Francis Condominium Project, 1 St. Clare Road, Medford (V14-258)

TH - EXHIBIT –variance application and supplemental information
- conversion of a school to 18 condo units
- 6 first floor garden style, and 3 additional units at the first floor and 9 town house style units on the upper level; all units are for sale
- more than 30% of the building value being spent
- seeking a variance to install a LULA

MB - grant as proposed

AB - second – carries with DM abstaining

CS now present

18) Incoming Discussion: Apartment Building (22 units), 84 Fenway, Boston (V14-205)

TH - granted a request on 8/15/14 to allow an elevator cab size of 43" by 49", issue was with the elevator doors; granted on the condition that the doors were widened and an analysis of spending was submitted
- EXHIBIT – request for hearing received on October 3, 2014; date for submittal of request was due on September 19, 2014; seeking to waive the timeframe for the hearing request
- no other information submitted for the requested information

MB - *waive the timeframe and schedule the hearing, and require that the additional information shall be presented at the time of the hearing*

CS - *second – carries unanimously*

19) Incoming: McGauvran Hall, UMass Lowell, 71 Wilder St., Lowell (V14-243)

TH - EXHIBIT –variance application and supplemental information
- gut renovation of the building, spending over 30%
- seeking a variance for one of the entrances
- three other accessible entrances

MB - did they look at a lift?

TH - no plans shown for a lift

MB - *continue for more information regarding the installation of a lift at that entrance (plans and cost estimates)*

RG - *second – carries unanimously*

Brief Break

20) Hearing: Canoe Club Ballroom, 2 South Street, West Bridgewater (C12-086 & V13-282)

WW - called to order at approximately 11 a.m.
- introduce the Board

Jason Rawlins, Attorney for the Canoe Club (JR)

Tim Briggs, Canoe Club Manager (TB)

Mark Dempsey, Compliance Officer for the Board (MD)

WW - TB and MD sworn in
- EXHIBIT 1 – AAB1-129

MD - complaint was received in November of 2012 with a First Notice sent out in late of November 2012
- shortly thereafter, received request to do a staff site visit (requested by complainant)
- site visit done on April 2, 2013
- permit dated June 20, 1983 for gazebo
- parking issue has been resolved, but still other issues need to be addressed

TH left the room

- JR - in terms of gazebo, don't contest any other jurisdiction other than the jurisdiction of the gazebo
 - issue is the word "site"
 - AAB62 (Exhibit C)
 - Site 76 is where the building is located; the gazebo is on parcel 79
- WW - newly constructed in 1983, so therefore required to comply with the 1982 edition of 521 CMR
- JR - accept the jurisdiction, therefore question then is whether compliance is practical or not
- MB - *find in favor of the complainant on all reported violations addressed*
 RG - *second – carries unanimously*
- TB - initial complaint was for only the building on the main parcel of land
- WW - can change the address, the parcel is still part of the Canoe Club and owned by the Canoe Club
- JR - argue is excessive cost without substantial benefit to persons with disabilities
 - since it was built in 1983, well past any course of recourse for the builder
 - cost of ramp adding to the building is noted as \$25,440
- TB - AAB65, cost for ramp
- CS - quote for a lift as well?
 TB - by the time the lift and the walkway around it was built, there was no way to access both tiers of the gazebo
- JR - AAB64 is a picture of the gazebo
 - a vast majority of people that are married at the gazebo are married in front of the gazebo and not in the gazebo itself
 - based on the use and the cost of compliance, seeking a variance for the lack of access
 - typically used as a backdrop
- MB - AAB65, the quote is for the lift
- DM - anything else happens at the gazebo?
- TB - use it as a backdrop for the photos, but most of the pictures are generally taken by the river
 - some private parties
- DM - does the person conducting the wedding stand on the gazebo?
 TB - not generally used, only as a backdrop
- MB - public space, even though private parties
 - other gazebos have been made accessible

- and understand that it has been like this for a very long time, but it was required to be compliant when it was constructed in 1983

- need to prove excessive cost without substantial benefit to persons with disabilities; the only way that there is not substantial benefit is if the gazebo is not used

- the other means of a variance is technological infeasibility

TB - because the gazebo is so close to the river, it is an issue with the conservation commission as well

WW - have you looked into lowering the gazebo?

JR - have not looked into that

TB - concrete footings below the gazebo

JR - can issue caveats with a decision

- if allowed a small break, could discover a possible caveat

AB - height of the gazebo as it currently sits?

TB - unsure, but have to be 150 feet or more

JR - there is no guarantee that even if required, would be able to get an order of conditions from conservation commission, but unsure if approval from them would be required

GD - AAB73, appears to be 28 inches up to the first level of the gazebo

- hard to believe that no one will be up on the gazebo, even for a short period

- could wrap a ramp around the gazebo, but do understand the cost issue

JR - think that any construction here would trigger the wetlands protection act

CS - a very beautiful gazebo, find it hard to believe that there would be no one that would go up on the gazebo

- cannot see an opening for the ceremony to be held, what about musicians

TB - there is an electric plug under the tree next to the tree, which is where the musicians are held

- there is also a house behind the gazebo that is in the direct line of the pictures, which is why pictures are often taken

Brief Break

JR - can propose not to use the gazebo for functions

MB - how is that enforced?

TB - it can be added to general information and terms of function contracts

WW - sometimes conditions are forgotten

- what about taking the steps off of the gazebo

JR - would still have to file with the conservation commission, and unsure of approval for that
- understand the concern with enforcement

MB - grant the variance requested for the lack of access to the gazebo, on the condition that a copy of the contract is submitted, noting that the gazebo is not available for use; also need the submittal of an affidavit that the gazebo will not be used; and also register the affidavit and the general contract language (once approved by the Board), with the understanding that if it found that there is use of the gazebo, a hearing would be scheduled immediately for the lack of compliance with an order of the Board

DM - second – carries unanimously

MB - submit the requested information within 30 days receipt of the written decision of the Board

JR - raised area within the building
TB - AAB21, through AAB24

JR - L shape, with one side of the L having a raised area, up 2 steps to the raised level area
- initially there was not an alternative that is accessible
- now seeking a variance to maintain the raised area, with a lounge space along the window

CS - small section, as opposed to the large raised area

JR - lightly used area, the main events are held in the main portion of the ballroom

CS - yes, understand the general use for a wedding, but it is a nice little area to get away from the crowds, and the area in question is very small and not usable

JR - there are pillars are on all three parts of that area

CS - there is no plan for a ramp even submitted
- there is clearly a substantial benefit in trying

DM - can allow narrower ramp and no handrails if the slope is gradual enough

TB - there are 4 different areas of furniture
- made this fifth section; 5 living room setups with the same view
- it was recommended as possible solution

WW - need to prove technical infeasibility or excessive cost without substantial benefits to persons with disabilities

CS - submit a plan and cost estimates for creating a ramp to that area, along with any additional variance requests (for slope, width, etc.), to be submitted within 45 days

MD - there are three separate raised areas

CS - *have the plans and cost estimates for creating access to all of the raised areas within the building, submit on or before January 1, 2015*

AB - *second – carries unanimously*

JR - next variance is for the parking, but have agreed to add a 5th space
- AAB61 is proposal

MD - they do have van accessible parking spaces at the other side

TB - they are not removing the van space, adding one more van accessible, taking away two standard spaces

CS - *accept the plan for parking lot to add the 5th parking space*

TB - restriping in the spring, most likely done by May 1, 2015

CS - *comply with parking by June 1, 2015, to verify that parking complies*

DM - *second – carries unanimously*

JR - new ramp was installed

- shown in AAB6

TB - used to have a portable ramp that was laid over the steps

- one of the slopes is 8.6%

- simply asking for variance for that one section of the ramp at the top right of the ramp

DM - *grant the variance requested for the slope of the ramp*

RG - *second – carries unanimously*

JR - door width to photo room

- there is currently two 28 inch French doors, going to provide a 36 inch compliant door with a solid panel

TB - the doors are closed, but they do open them, the space is used as a bridal suite, so it is closed off to the main room

- need some time to complete any internal work

- proposing to finish all the work in the end of 2016 and beginning of 2017

- previous renovation work, did block off three months, when the building was not used at all

WW - couldn't do the job mid-week

TB - do have other stuff, which needs to be done, so Petitioners were looking to get a large loan to do all the work at once

CS - *grant a time variance to correct the noncompliant width of the bridal suite doors by March 1, 2017*

DM - second – carries unanimously

JR - bathroom, women's room has a bridal powder room, going to create a fully compliant unisex toilet room

TB - we don't want it to be the bride's bathroom, this is the reason why there is a bridal suite provided

DM - grant a variance to allow until March 1, 2017 for the construction of the proposed unisex accessible toilet room

MB - second – carries with CS opposed

JR - second means of egress

- prior counsel submitted the variance requests

- AAB28-37

- initial proposal had an accessible means of egress, which was directly adjacent to the main accessible egress

- proposing an accessible means of egress that will be built as an area of rescue assistance

- there is not a 42" difference between support beam and step to provide a 42" clear path of travel out a compliant doorway that leads past fire rated walls and doors, and proposing the installation of a compliant door leading to an accessible area of rescue assistance

WW - the building is sprinklered?

TB - yes

MB - continue the discussion regarding the second means of egress, to have the Petitioners shall submit a plan for this work to create an accessible area of rescue assistance, to be submitted by January 1, 2015

DM - second – carries unanimously

TH now present

21) Hearing: 81 Dwelling Units, 17 Locations, Boston (V14-192)

WW - called to order at approximately 1 p.m.

- introduce the Board

Dave Traggorth, Traggorth Companies, Project Manager (DT)

Amy Lawton, Wingate Management Company, Property Manager (AL)

Cliff Boehmer, Davis Square Architects (CB)

Laura Cella-Mowatt, Davis Square Architects (LM)

WW - all sworn in

- EXHIBIT 1 – AAB1-54

- AL - Roxbury Tenants of Harvard is a residents' organization which is a nonprofit that provides affordable housing for the Brigham and Women's Hospital
- also own Mission Park, 700 plus unit development
 - also own 4 properties in the "old neighborhood", over 100 years own on Fenwood and Francis Streets, bordering Huntington Avenue
 - last substantial rehab was in 1981
 - residents in the neighborhood to the type of neighborhoods and buildings
 - many people choose to stay in the older wood frame houses, instead of living in large development
 - 100% Section 8, pay 30% of their income for rent
 - all of the four accessible units are occupied by people who need those accessible features
 - one unit has been occupied by the same family since 1984, the other has had the same family since 1987 and the others were occupied since 2004 and 2007
 - resident ownership board, everyone on the Board is a resident is a member of 5 properties
 - there are 81 units in 17 different buildings
- DT - five groupings of properties
- AL - AAB39, other properties are owned under a different development umbrella; they own the majority of the properties under a different ownership umbrella
- TH - those properties are not part of this variance application
- DT - \$10 million dollar project
- financing does place some constraints on the project
 - need to meet the requirements of the historic board and the accessibility requirements, want to find a balance in between the two.
 - have had several community meetings with the residents of this group
 - everyone is ready for a renovation
 - a lot of the financing sources are starting to line up, could look at March closing and start of construction, with an additional 10 month construction period
 - many residents can stay within the units while the work is done
- CB - principle at Davis Square, Laura has done most of the design plans
- renovation in 1981 and moved the buildings
 - four accessible units created and occupied in 1981, who have been occupied by people that need those accessible units
 - the units will have accessible laundry and there will be an accessible laundry room provided
- TH - the public and common room areas are not required to comply in any of the units based on the fact that there are not more than 12 units in any of the buildings
- CB - want to make the buildings as compliant as possible with accessibility
- green buildings on AAB39 are the ones that have accessible units

- distribution based on types of units
- there is one 1-bedroom, 2 2-bedrooms and one 3-bedrooms, which meets the distribution percentage very closely; actually two 1-bedrooms required, and only one 2-bedroom required

CS - grant the variance for the distribution as proposed

RG - second – carries unanimously

- CB
- next variance is for 25.1
 - there are accessible entrances provided, but they do not comply in full
 - the current scope of work is to rework the existing ramps to comply with the applicable requirements
 - the issue is the lack of compliance at the rear entrances
 - AAB47, 49 and 50
 - two of the units, by code, only need ones means of egress
 - three of the four buildings are sprinklered
 - variety of conditions that make the required work both infeasible and an excessive cost without substantial benefit to persons with disabilities

- DM
- how many units do not have a second means of egress?

CB - no, they all have a second means of egress, but two (by code) are not required to have a second means of egress

- there is also an area of refuge at the rear of the building

- AB
- does the cost outlined AAB52 outline this variance request

- LM
- in every case a ramp would be over the property line, with more than half of them do not have maneuverability within the stair halls

- CB
- all ramps will comply in full

CS - grant as proposed

RG - second – carries unanimously

- CB
- next variance for interior stairs
 - exterior stair handrails will all comply with both historic and access code requirements
 - are improving the stairs with a wall side continuous handrail, proposing to preserve the interior handrail and guardrails; adding carpeting to the stairs to help with nosing issues
 - it is technologically infeasible to make the stairs comply in full

- GD
- height of risers

LM - issue is more with the tread depth

- AB
- bull nosing and how much is the overhang

CB - yes and ½ to ¾ of an inch

LM - will add carpeting to the stairs to help with the nosings

DM - grant 27.2, 27.3, 27.4 and 27.4.1 as proposed

AB - second – carries unanimously

- CB
- accessible unit that is currently occupied
 - it has a bath and a half
 - able to make the full bath fully compliant (not fully compliant currently)
 - half bath, in order to make it fully accessible, would have to encroach onto a stairway
 - proposing to replace the fixtures in the bathroom, with an accessible sink and replacing the grab bars, but not relocating the fixtures
 - also cannot create a new accessible toilet room without encroaching on the bedrooms
 - this is the 36 Francis Street building, as noted on AAB14

DM - grant as proposed

RG - second – carries unanimously

22) Incoming: The Flashcube Building, 463 Worcester Road, Framingham (C11-117 & V14-245)

- TH
- EXHIBIT – variance application and supplemental information
 - cited with the complaint in August of 2014
 - on September 8, 2014, a variance was submitted for one of the items that was cited in the complaint
 - seeking relief for one of the entrances into the building
 - all other entrances are accessible

- MB
- is that the one at the parking lot?

TH - was told by Mark Dempsey, Compliance Officer, that it was the entrance at the rear of the building

CS - grant as proposed

DM - second – carries unanimously

23) Incoming: Charitable Dormitory Housing, 231-233 Harvard St., Cambridge (V14-259)

- TH
- EXHIBIT – variance application and supplemental information
 - spending over 30%
 - seeking two variances: for the front entrance and the winder stairs
 - main entrance has several steps that lead down to the sidewalk
 - there is a gated yard at the rear that has a compliant entrance ramp at the rear
 - all visitors must ring bell for access and all residents have key cards for access

MB - grant as proposed for entrance

DM - second – carries unanimously

- TH
- proposing compliant handrails at the winder stairs

MB - grant as proposed
DM - second – carries unanimously

MB - continue to have the petitioners submit a floor plan to confirm that there is an accessible unit at the first floor
DM - second – carries unanimously

24) Incoming: The Shore House, Battelle Memorial Institute Campus, 397 Washington St., Duxbury (V14-248)
& The Richards House, Battelle Memorial Institute Campus, 397 Washington St., Duxbury (V14-249)

TH - EXHIBIT – variance applications and supplemental information
- seeking variance for the lack of access in the Shore House
- basement and first floor are accessible at grade
- Group 2B units provided in another building
- 4 story including basement
- there is an entire accessible first floor

CS - get more information about the nature of the campus and the other accessible dorms provided, and what kind of vertical access exists at the other dorms
- no second – motion fails

AB - grant as proposed
GD - second – carries with CS opposed

TH - The Richards House
- renovation of the house for dormitory use
- spending over 30%
- first floor is fully accessible and an accessible bathroom at the second floor
- seeking variance for lack of vertical access
- supported by the Duxbury Commission on Disabilities as well

CS - any common space on the upper floors, other than bathrooms

MB - grant the variance for the lack of vertical access
AB - second – carries unanimously

MB - require compliant handrails on the ramp and the front steps, with confirmation of compliance submitted to the Board prior to the issuance of a certificate of occupancy
AB - second – carries unanimously

MB - require compliant handrails on the front and rear steps, with the rear stairs compliant and not open risers for the Shore House
AB - second – carries unanimously

25) Hearing: Alumni Gymnasium, 100 Institute Road, Worcester (V14-190)

WW - called to order at approximately 2 p.m.
- introduce the Board

Chris Lynch, Code Red (code consultant) (CL)

Libby Brown, Goody Clancy (architect) (LB)

Alfredo DiMauro, Worcester Polytechnic Institute Vice President (AD)

WW - all sworn in
- EXHIBIT 1 – AAB1-31

CL - originally built in 1915 and then addition in the 1960's called "The Link"
- new athletic building built, so many of the functions of this building have been moved to the new athletic building
- this building is proposed to be converted to be an exhibition space for the work done by the students and staff of Worcester Polytechnic Institute (WPI)
- AAB17, the lowest level, a pool deck

AD - there is an auditorium in the building on the other side of the link building

CL - the bowling alley that has been abandoned at the second floor
- at the third floor there are men's locker rooms and office space
- at the fourth floor is the existing gymnasium
- fifth floor is a track and some game rooms

LB - at the first and second levels in the main building will be a two level robotics lab
- up on the third floor, will be a "shop space" and an entrepreneur leadership space with meeting and conference room space
- Level 2 and 3 are the main entry levels
- the main gym area will be repurposed to be a large student group meeting group

AD - blue spaces are mostly abandoned storage space that will only be accessed by employees and mechanical space

CL - currently there is no accessible features within the building
- there is one accessible ramp at the main entry and there is currently no elevator
- plan to make the building substantially accessible, with the installation of a new elevator that will access all 5 levels of the building
- the link portion of the building is going to be demolished
- within the building there are a series of ramps that will be added within the building to connect Level 2 to the main entry (at a half height) and back up to Level 3

- WW - the repurposed area is going to be substantially compliant and are seeking a variance for the lack of compliance at the Link building, since it is proposed to be torn down
- what is the timeframe
- CL - could be as soon as this year, but seeking 5 years just in case
- AD - full Board meeting in November to discuss the removal of the Link building
- the locker rooms in the link building are only for the varsity teams, visiting teams and visiting officials
 - the new building has accessible locker room spaces
 - varsity sports are played in the adjacent building, so looking to maintain the inaccessible locker rooms
 - if not approved right away, then the link would have to be torn down in the next five years
- LB - AAB30, site plan showing the location of the adjacent buildings and fields
- CL - \$2million worth of upgrades required for the main building
- \$225,000 to do the required work at the Link building, which will eventually be torn down
- AD - the auditorium and the Alumni Hall do connect underground
- the new building is also interconnected to the existing Alumni Hall and Auditorium
- CL - sprinklers proposed in the Alumni Gym and will be added in the Link building if the link remains
- CS - track does not exist anymore?
- AD - there is a new inside track in the new building; the existing track will be used for mechanical spaces and some storage
- MB - grant the variances for all of the sections in the Link Building (19.4, 31.1, 30.1, 20.11.1, 26.6 and 40.1) based on excessive cost without substantial benefit to persons with disabilities*
- AB - second – carries unanimously*
- MB - signage shall be posted regarding directional signage directing people to the accessible locker room facilities*
- AD - there is a drop-off circle where visiting teams are dropped off, which will note that the accessible locker rooms are located in the new building
- MB - motion is to deny the variance requested for the lack of accessible signage within the Link building, and require that a wayfinding package be submitted for the routes to the accessible locker rooms*
- AD - if the trustees don't approve the project then will go forward, if trustees do approve it then the issue is moot since the building will be torn down
- MB - submit package or information regarding by December 1, 2014*
- DM - second – carries unanimously*

26) Incoming Discussion: Baptist Church, 207 Egremont Plain Road, North Egremont (V13-233)

- TH
- gave the church one year to create an accessible entrance
 - stairs removed and not made accessible
 - EXHIBIT – September 18, 2014, letter from Roxanne Gwathrop, Treasurer for the Church
 - requesting a permanent variance to not provide access to the church
 - the 6 remaining members have voted to close the church and sell the building

MB - deny the variance requested for the lack of access, but to hold the stipulated order date, until after the building is purchased, at which time (if open to the public) the accessible entrance shall be constructed by the new owner; with status reports on the efforts to complete the sale to be submitted every 6 months, with the first report to be submitted by April 1, 2015, until the building is sold. Must notify the next owner of the issues before the Board, which will require that if the building is used as public space it must have an accessible entrance

CS - second – carries unanimously

27) Incoming: Mandarava LLC, Eleanor Vyn, 46 Inn Street, Newburyport (V14-255)

- TH
- EXHIBIT – variance application and supplemental information
 - connecting the two spaces, building an arched entry with a step
 - spending \$4,000, ask to use a portable ramp between the two spaces
 - current tenant space is 340 square feet
 - no plan showing the impact of a ramp, and no height given

MB - continue for more information, specifically test drawings for creating access at that change in level

DM - second – carries unanimously

28) Incoming: Dr. Po Po Chui, DMD LLC, 1051 Beacon Street, Suite 102, Brookline (V14-254)

- TH
- EXHIBIT – variance application and supplemental information
 - spending over 30%
 - full compliance for dental office and common areas for the rest of the building
 - seeking a variance for just the entrance into the building
 - no ramp studies or drawings

MB - deny

AB - second – carries unanimously

29) Incoming Discussion: Lynnfield High School Athletic Complex Improvements Project, 275 Essex Street, Lynnfield (V14-065)

- TH
- EXHIBIT, Gale Associates letter from September 29, 2014; seeking extension of time to continue to use the press box until the lift is inspected

CS - *granting an additional 30 days from receipt of decision to use the press box until the lift is inspected*

MB - *second – carries unanimously*

30) Discussion: 11 North Restaurant, 11 North Water St., Edgartown (V11-206)

TH - EXHIBIT - August 5, 2014 e-mail from Chip Williams

- previously asked for the issuance of temporary CO for the space for the installation of the incline wheelchair lift

- held the decision because another problem came up when he went to get the permits for the lift installation, was told to take the request to the historic commission

- cleared the hurdle with the historic commission in the last couple of weeks

- now an issue with the drive box location

- have received a written request from the owner; previously was only a concept and verbal request

- should we release the decision or wait until the equipment is on the island?

- have been talking to Garaventa as well

MB - what about a contract?

TH - we have a signed copy

TH - yesterday got the email from John Roberts regarding status of the project

CS - would like to know that it is there

MB - *allow the issuance of the temporary certificate of occupancy, on the condition that the lift is installed, inspected and verified as such, within 90 days receipt of the decision*

MB - *reaffirm the previous decision of the Board*

DM - *second - carries*

Brief Break

DM left for the day

31) Hearing: Cahoon Museum of American Art, 4676 Falmouth Road, Cotuit (V14-105)

WW - called to order at approximately 3 p.m.

- introduce the Board

Jason Eldgredge, Chair of Board of Trustees for Cahoon Museum (JE)

Richard Sampson, Building Code Consulting LLC (RS)

Steven Cook, Cotuit Bay Designs LLC (SC)

Roger Brooks, Cotuit Bay Designs, LLC (RB)

WW - all sworn in

- EXHIBIT 1- AAB1-60

- TH - spaces better defined, so need to be submitted electronically
- JE - located in this building for the last 30 years, on the register of historic places
- in 1945 purchased by artists and lived and worked in the building, as well as operated a gallery out of the building
- in 1982, Mr. Cahoon passed away and museum was established in 1984
- two-story building
- some of the trustees cannot navigate the stairs and could not see second floor exhibits
- project for access upgrades is moving forward
- the proposal is for an addition with an elevator that will be fully accessible
- elevator will create access to the second floor of the historic portion of the building
- there are stencils that are in the building, some that go back to the 1830's
- SC - currently no access to the second floor of the building
- tried to design a new addition to accommodate accessibility
- two phases, the first phase was to repair the existing building
- cost of Phase 1 was more than 30% of the value of the building
- Phase 1 was mainly repair work at the exterior and Phase 2 was the accessibility project
- RB - packet of information groups the requested variances together
- WW - EXHIBIT 2
- RB - 11" x 17" copy of the boards presented
- WW - accept as EXHIBIT 3
- SC - existing brick ramp which has a noncompliant slope, handrails and edge protection
- will not be considered an accessible entrance, with directional signage, directing people to the new accessible entrance into the building
- location 2 and 3 are doorway widths and thresholds
- MB - dimensions?
- SC - front door is 36 inches and the first opening at the entry is 36 inches as well
- KS - need to know the slope of the ramp
- RB - 8 ½ inches of rise over 7 feet
- RS - the existing entrances will not be used as entrances
- cannot be changed because they are on the street
- the addition will create a new entrance into the building

JE - original plan was to break the project into two phases
- are funded enough by donations to tie in the Phase 2 work

MB - so the work will be done prior to reopening the building
JE - yes

RS - the addition will create accessible parking

TH left the room

SC - lower level accessible parking

GD - restoration completed in the existing building?
SC - underway, were granted an at-risk permit

SC - addition at the rear of the building minimized the addition connection
- new gallery and courtyard as well

RB - the addition is to be built
- this is for the completed project, will not reopen until the entire addition is completed

SC - connection to the second floor via the elevator in the addition
- lower level has entrance directly to the parking

SC - ramp will remain but will only be used as emergency egress
- the two doorways into the galleries are 29.5 inches and 28.75 inches
- there is also a noncompliant threshold at these two doors

CS - how high are the thresholds

RB - all thresholds are $\frac{3}{4}$ of an inch in all but two locations

CS - when is the project proposed to be completed?
JE - planning a grand opening in August of 2015

RS - realize that there are problems with thresholds and clearances
- intent is to have staff on hand to assist all patrons navigate through the existing building

KS - the building will be closed until the addition work is done

CS - ok, glad that that was cleared up

RB - very thin wall construction with

MB - grant the variance for items 1-3, on the condition that the front entrance is used as an entrance, and people are directed to the new accessible entrance

CS - second – carries

SC - noncompliant stair due to noncompliant width and lack of continuous
- proposing to no use the stairs, will direct people to the new stairs in the addition

JE - stencil along the stairs that dates back to 1850, and on horse hair plaster

SC - they are only 2'4" wide

RS - the stairs are also extremely steep

RG - can the stairs be roped off?

RB - there are currently ropes in place at both stairs

RS - there will be signage throughout the project

MB - grant for the variances requested (#4) for the existing front stairs, on the condition that the stairs are roped off

RG - second – carries unanimously

SC - rear existing stair is closed off and the doors are closed
- only used by staff and the stairs are so steep that people are not encouraged to use it

RS - the stairway doors are also closed to prevent people from using this stair

CS - why can't make one of the entrances into the existing gallery at the front of the house accessible

RB - could go into the existing HVAC vents area, would have to reexamine to figure out exactly what could or could not work

CS - continue the discussion regarding variance request for the lack of access at variance location #5, along with #2 and #3

WW - what is going to be in these rooms?

JE - will restore old easels and equipment and make the larger room the mock studio area
- the other two galleries are the gallery space

CS - just need to see as much width as possible and

MB - 28.5 inch width may not work, because may hit the historic moldings

WW - would have to cut into the molding

MB - second

WW - could do a photo gallery or video of everything in that room

JE - current director did suggest the idea of video and photo gallery

CS - are there other galleries?

JE - yes on the second floor and in the new addition

CS - withdraw the motion on the table

MB - rescind the granting of relief for the series of interior doors at location 2 and 3

CS - second – carries unanimously

CS - continue to have the petitioners submit more information regarding doors 2, 3, 5, 10, 11, 12, 13 and 14, to make them more accessible in terms of widths and thresholds, to be submitted to the Board within 30 days receipt of this decision of the Board

GD - second – carries unanimously

SC - variance for staff only stairs (#6)

KS - are staff paid employees or volunteers

JE - both

MB - grant the variance for the lack of access at rear stair (#6), based on technological infeasibility and excessive cost without substantial benefit to persons with disabilities

CS - second – carries unanimously

SC - there are variances for noncompliant clear widths at doors and threshold for staff hallways, and #9 is for staff only bathroom

JE - volunteers are generally in the gift shop and at the information counter

- other paid employees are the ones that move the artwork

MB - grant the variances requested for requests 7, 8 and 9, based on the fact that these areas are staff areas

CS - second – carries unanimously

Brief Break

Reconvene – all but GD present

32) Incoming: Carpenter House, Tufts University, 8 Winthrop St., Medford (V14-250)

TH - EXHIBIT – variance application and supplemental information
- spending over 30%
- seeking 6 different variances

CS - *hearing*

AB - *second – carries unanimously*

MB - how many rooms?

TH - 25 sleeping rooms
- 10 feet up to the entrance
- elevators not required since it meets the exception of 8.5.2
- seeking variances for complete relief

GD now present

CS - just a dorm, no special use?

TH - yes, no special use

TH - there are multiple changes of level throughout the building

CS - *rescind the motion for the hearing*

AB - *second – motion carries*

MB - *grant the variances requested, based on the fact that the cost of full compliance would be excessive without substantial benefit to persons with disabilities*

AB - *second – carries unanimously*

33) Discussion: Administrative Approval with a follow-up vote from the Board

TH - would like to be able to approve status reports as they come in

KS - these are the items suggested:

General:

- any dimension variation from required maximum or minimum dimensions that falls within 1” of the required dimension. (Should tolerances just be able to be applied to maximums and minimums in new code book?)
- any administrative review that reveals that no variance is required by the Petitioner
- first request time extensions to existing Board orders up to 60/90 days

9.5.6 - outlets along glass curtain walls; on the condition that all other outlets within the dwelling units comply with the applicable requirements

- 24.2 - ramp slopes of 1:11.5
- 24.3 - reduction to 36" minimum clear width between ramp handrails
- 25.2/26.6 - lack of level landings at either side of entrance doors on the condition that automatic door opener is installed and slope of approach is 1:12 or less
- 27.4.1 - lack of compliant handrails on both sides of stairs, on the condition that compliant wall mounted handrail is installed

43.3.2 (Group 1) & 45.4.5 (Group 2) - Kitchen sink depths allowed to alternate depths, on the condition that policy in place and within the lease/condo doc language that the kitchen sink will be switched out for the required depth sink (6 ½") upon the request of the tenant and installed at no cost to the tenant

- MB - so issue is for 25.2 and 26.6 for level landings, should only be for exterior
- should only be for exterior entrance landings

- CS - change to just 60 days, 3 months is a long time
- TH - but 3 months is sometimes needed for parking lots if they are cited in the winter months

- CS - but would like just 60 days for an extension

MB - allow staff to automatically review and grant (if they so determine) for the variances listed, with the exception that time variance extensions can only be for up to 60 days; and can only decide on cases for the exterior portion of entrances with noncompliant landing slopes and automatic door openers

CS - second – carries unanimously

GD left for the day

34) Discussion: Meeting Minutes and Decisions from September 22, 2014

- MB - approve the minutes and decisions from September 22, 2014*
- AB - second – carries with MB abstaining*

35) Discussion: Westport Beach Advisory

- TH - difference between path of travel and road
- would the road be considered a path of travel or a trail
- MB - a road is defined as a road, but sometimes roads have shared use, for vehicular or pedestrian or cyclist
- TH - Westport Land Trust would be considered trails or an area of open space
- MB - it is an area of open space with trails, which are paths of travel

TH - mats regarding seasonal placement and use of the mats may hinder dunes forming or prevent dune vegetation

MB - once the mats are in place, and they have been there for the season, the mats will be picked up and moved prior to the winter; and at that point they can assess the placement of the mats and can put them in a different location in the spring

WW - we can't speculate on what is going to happen

MB - yes the question is too speculative, and based on unsubstantiated concerns

TH - What are the requirements relating to Land Trust parcels in regards to change in use; as they were previously private property prior to the land trust purchase?

- would access be provided based on "change of use"
- it would be the 1996 edition of 521 CMR
- constructing routes requires that the routes are accessible
- change of use requires accessible route from an accessible entrance to get to the portion that has been changed in use

MB - argument is no improvements were made to the property, so the question is: is a path of travel required

- since they invited the public onto their property, have to be able to access what has changed which requires an accessible route to the changed space

TH - is it the opinion of the Board that the Westport land conservation trust is responsible for the access and who is required to maintain the access, if they don't have the funds to maintain the access

MB - access has to be provided, and how they go about funding and maintaining the access is between the Town of Westport and the Land Trust

TH - why is access required?

MB - as stated previously, the Board believes that there is a requirement to provide access to the property

MB - accept the noted response as discussed by this Board, and instruct the staff to reply accordingly in writing

CS - second – carries unanimously

36) Discussion: Valley View School, 91 Oakham Road, North Brookfield Road (V14-063)

TH - EXHIBIT – August 8, 2014 Fay Raynor wrote to the Board and provided a written policy, per the previous decision of the Board from the hearing

- policy written by Eric T. Bulger, Associate Director of Valley View School

CS - accept the policy

RG - second – carries unanimously

- End of Meeting -

Matters not reasonably anticipated 48 hours in advance of meeting:

- Lynnfield High School Athletic Complex Improvements Project, 275 Essex Street, Lynnfield (V14-065) - Gale Associates letter from September 29, 2014; seeking extension of time to continue to use the press box until the lift is inspected
- Apartment Building (22 units), 84 Fenway, Boston (V14-205) - request for hearing received on October 3, 2014; date for submittal of request was due on September 19, 2014; seeking to waive the timeframe for the hearing request

EXHIBITS:

- Elevator Modernization, 100-102 Tremont St., Boston (V14-251) - variance application and supplemental information
- Howard Building, 67 Federal St., Pittsfield (V14-253) - variance application and supplemental information
- Home Plate Restaurant, 1094 Bay St., Taunton (C13-028 & V14-247) - variance application and supplemental information
- Vineyard House, Women's Building, 56 Shorthill Road, Vineyard Haven (V14-246) - variance application and supplemental information
- Sidewalk Restoration Project, 464-490 Commonwealth Avenue, Boston (V14-268) - variance application and supplemental information
- Vernon Street School, 56 Vernon Street, Northampton (V14-244) - variance application and supplemental information
- Papas Law Library and Auditorium at BU, 765-767 Commonwealth Ave., Boston (V14-252) - variance application and supplemental information
- 308 Lakeside, 308 East Main Street, East Brookfield (V14-256) - variance application and supplemental information
- War Memorial Tower, Mount Greylock State Reservation, Adams (V14-257) - variance application and supplemental information
- Amorino (proposed tenant at first floor, Unit C-2) 249 Newbury Street, Boston (V14-260) - variance application and supplemental information
- St. Francis Condominium Project, 1 St. Clare Road, Medford (V14-258) - variance application and supplemental information
- McGauvran Hall, UMass Lowell, 71 Wilder St., Lowell (V14-243) - variance application and supplemental information
- The Flashcube Building, 463 Worcester Road, Framingham (C11-117 & V14-24) - variance application and supplemental information
- Charitable Dormitory Housing, 231-233 Harvard St., Cambridge (V14-259) - variance application and supplemental information
- The Shore House, Battelle Memorial Institute Campus, 397 Washington St., Duxbury (V14-248) & The Richards House, Battelle Memorial Institute Campus, 397 Washington St., Duxbury (V14-249) - variance applications and supplemental information

- Mandarava LLC, Eleanor Vyn, 46 Inn Street, Newburyport (V14-255) - variance application and supplemental information
- Dr. Po Po Chui, DMD LLC, 1051 Beacon Street, Suite 102, Brookline (V14-254) - variance application and supplemental information
- Carpenter House, Tufts University, 8 Winthrop St., Medford (V14-250) - variance application and supplemental information
- Odd Fellows Hall, Eternal Hall No. 132, 2 Namskaket Road, Orleans (V11-089) - September 25, 2014 status report submitted by e-mail from William Wordell, Noble Grand IOOFF
- Hancock Congregational Church, 1912 Massachusetts Avenue, Lexington (V12-173) - e-mail from Don Mills, September 19, 2014 with plans included
- St. Paul's Episcopal Church, 16 Fair Street, Nantucket (V14-149) - submittal from John Stover
- Baptist Church, 207 Egremont Plain Road, North Egremont (V13-233) - September 18, 2014, letter from Roxanne Gwathrop, Treasurer for the Church
- 11 North Restaurant, 11 North Water St., Edgartown (V11-206) - August 5, 2014, the Architectural Access Board ("Board") received an e-mail from Chip Williams
- Valley View School, 91 Oakham Road, North Brookfield Road (V14-063) - August 8, 2014 Fay Raynor wrote to the Board and provided a written policy, per the previous decision of the Board from the hearing